



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
HEDGEYE RISK MANAGEMENT, LLC,

Plaintiff,

- against -

DARIUS DALE, et al.

Defendants.
-----X

21-CV-3687 (ALC) (RWL)

ORDER

ROBERT W. LEHRBURGER, United States Magistrate Judge.

This order addresses the discovery issues raised by Plaintiff Hedgeye at Dkts. 469, 470 and 473.

1. With respect to Dkt. 469 concerning the discovery schedule, by **March 13, 2023**, Hedgeye shall file a letter explaining in what manner and extent, if any, the outcome of any currently pending motion to dismiss would expand the scope of discovery required that has not already been pursued in discovery. Defendants may respond by **March 16, 2023**. By **March 14, 2023**, the Terman Defendants shall file their amended counterclaims. By **March 21, 2023**, Hedgeye shall file a letter explaining in what manner and extent, if any, the amended counterclaims expand the scope of discovery required that has not already been pursued or is scheduled to be pursued in discovery. Defendants may respond by **March 24, 2023**. In the meantime, the deadline for fact discovery is extended for 30 days for the sole purpose of completing document discovery on the Terman counterclaims and third-party discovery on those counterclaims. Hedgeye's motion for an extension of all discovery until after the pleadings are closed (Dkt. 469) remains pending. Accordingly, current due dates for

expert reports and discovery (for all parties' claims and counterclaims) are extended by 30 days.

2. With respect to Dkt. 470 concerning requests for production 18-29 to the Terman Defendants posed by Hedgeye, and having considered relevance and proportionality:

- a. **RFP 18, 19, 29:** The Terman Defendants shall respond for the calendar years 2020 and 2021.
- b. **RFP 20, 21, 22:** The Terman Defendants need not produce their third-party vendor agreements, so long as they have identified those vendors pursuant to interrogatory (as the Terman Defendants have so represented).
- c. **RFP 23:** The Terman Defendants shall produce the notes or scripts relating to the CNBC appearances for which Terman claims Hedgeye defamed Terman.
- d. **RFP 24-28:** The Terman Defendants need not produce their internal corporate policy and regulatory documents.

3. With respect to Dkt. 473 seeking communications for which Defendants claim the benefit of common interest privilege, Defendants need not include post-litigation communications on a privilege log. To the extent any pre-litigation documents have been withheld by Defendants on the basis of common interest protection, Defendants shall identify them on a privilege log.

The Clerk of Court is respectfully requested to terminate the motions at Dkts. 470 and 473.

SO ORDERED.

A handwritten signature in black ink, appearing to read 'R. Lehrburger', with a long horizontal flourish extending to the right.

ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE

Dated: March 8, 2023
New York, New York

Copies transmitted this date to all counsel of record.